

REMARKS

Claims 1-2, 4-6, 8-11, 13-19, 21, 23-26, and 28-32 are pending in the application. No amendments have been made. Applicant requests reconsideration in view of the remarks submitted herewith.

The Examiner asserts that a complete reply to the final rejection must include cancellation of nonelected claims. However, Applicant has not canceled the withdrawn claims (claims 3, 7, 20, and 22) because claims 1 and 18 are still generic. If the generic claims are ultimately allowed, Applicant is entitled to have the additional species considered. See 37 CFR 1.141.

Claims 1-2, 4-5, 9, 11, 13-19, 24, 26, and 28-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Walter (U.S. 3,057,136) in view of Greenwell (U.S. 3,996,723). For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1996).

Claims 1-2, 4-5, 9, 11, 13-19, 24, 26, and 28-32 include the following limitations: "a movable conveyor that is positioned to deliver the product to each of said plurality of lanes, said movable conveyor extends under one of said plurality of lanes; a conveyor shifting assembly that is adapted to move said movable conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes." Walter and Greenwell do not teach or suggest those limitations.

The Examiner asserts that Walter teaches all of the limitations of the claims, except that Greenwell teaches the use of a movable conveyor 11 with a shifting assembly adapted to move the movable conveyor from one lane to an adjacent lane for the purpose of rapidly distributing product for packaging. The Examiner points to column 1, line 30 and column 2, lines 43-50 in Greenwell. The Examiner then asserts that it would have been obvious to one of ordinary skill in the art to provide Walter with a conveyor shifting assembly in order to distribute product to a plurality of lanes for efficiency. Applicant respectfully traverses.

First, Applicant disagrees with the Examiner's assertion that Walter teaches "said movable conveyor extends under one of said plurality of lanes." The claim requires there to be a plurality of lanes and that they conveyor extend under one of the lanes. Applicant has not claimed "a lane" or "at least one lane," which may suggest that the movably conveyor

could extend under more than one lane. Rather, Applicant has claimed "one" of the plurality of lanes. Walter teaches that the movable conveyor extends under all of the lanes, not just one. Moreover, when reading that limitation with the additional limitation in the claim "a conveyor shifting assembly that is adapted to move said movable conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes," the language "said movable conveyor extends under one of said plurality of lanes" can only be interpreted as being that the movable conveyor extends under only one lane because the conveyor then shifts to an adjacent lane.

In addition, Greenwell does not teach or suggest that "said movable conveyor extends under one of said plurality of lanes." In Greenwell, the conveyor extends from the feeding conveyor 13 to the accumulator 17. Thus, the movable conveyor 11 in Greenwell does not extend under one of a plurality of lanes.

The fact that the conveyor extends under one of the plurality lanes is a patentable feature. In paragraph 60 of the application, the specification explains, as follows:

"The packaging machine 20 allows the line pressure to be controlled so that there may be some line pressure, if there is no spacing mechanism and no spare lane. In addition, the packaging machine 20 may be utilized with no line pressure, if the spacing mechanism is employed and/or the spare lane is employed. The packaging machine 20 allows the product 170 to be filled continuously using a constant conveyor speed and without the need for the brake used by prior art packaging machines. In addition, the packaging machine 20 may maintain the predetermined gap 172 between the products 170 within each lane, which will eliminate the wind-up within the lanes. Because line pressure and wind-up can be controlled so that line pressure and wind-up are minimized or eliminated, the drawbacks and deficiencies caused by line pressure and wind-up have also been eliminated. For example, the packaging machine 20 allows the packaging of irregularly shaped product container while eliminating the interlocking, tipping or mispackaging or the product caused by line pressure and wind-up. Additional benefits are also gained by continuously maintaining the feed sequence of product, including the packaging of variety packs and first-in, first-out basis packaging."

These benefits are attained by having the movable conveyor located under only one line because such a feature allows for constant feeding occurring at the machine. When all of the lanes feed the product to the grid section, as provided in Walter, there must be line pressure and wind up (or a brake must be used) because the product must be stopped while the product drops through the grid section. Moreover, because the conveyor does not extend under the lane into the grid section, Walter must have line pressure in order to push the product onto the support strips at the grid section. Thus, Walter cannot operate without line pressure.

Moreover, there is no motivation to combine Walter with Greenwell, and in fact, Walter teaches away from being combined with Greenwell. Greenwell teaches about moving product down a conveyor 11 to a compartment 81, 82, etc. However, one skilled in the art would not combine that teaching with Walter. Walter teaches that all lanes are provided with the product at the same time and that the product advances into each of the lanes by line pressure between the stationary guide plates 12, 12. The product slides forward between the guide plates 16, 16 along the support rails 18. See column 1, line 69 to column 2, line 13. Thus, the infeed section in Walter operates through the use of line pressure or wind up since the product is pushed onto support rails 18. In addition, the method taught by Walter is efficient since all lanes are filled at the same time. While the Examiner asserts that one skilled in the art would be motivated to combine Greenwell with Walter for rapid product distribution, Greenwell's teaching would actually appear to provide for a much slower product distribution because only one lane is filled at a time.

As taught by Applicant, the reason for the invention is to provide a packaging machine with an infeed section that is able to deliver product without the problems associated with line pressure or wind-up. See paragraph 10. As explained in the background section line pressure and wind-up can cause problems in the packaging lanes, especially if the product is made of glass or is oval shape.

Thus, while the invention does provide for rapid product distribution, this is not the motivation for providing a single lane distribution. Instead, the single lane distribution is used to deliver the product into the grid section so that line pressure and wind up are not necessary. Greenwell does not teach or suggest such motivation. Moreover, since Walter provides product to all lanes at the same time, and none of the references teach about the problems associated with line pressure and wind up, one skilled in the art would not think that the filling of one lane at a time would provide any benefit, and would not seem to provide more rapid product distribution.

Thus, for at least the reasons discussed above, Walter and Greenwell do not teach or suggest all of the limitations of claims 1-2, 4-5, 9, 11, 13-19, 24, 26, and 28-32. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

In addition, claims 2 and 19 also include the following limitation: "wherein said support device includes a support strip, said support strip being located at each of said plurality of lanes and is located beneath said movable conveyor, said support strip supports the product when said movable conveyor is moved from beneath one of said plurality of lanes. Walter and Greenwell do not teach or suggest this limitation.

While Walter does teach about a support strip 18, Walter does not teach that the conveyor is located beneath the movable conveyor and that the support strip supports the product when the movable conveyor is moved from beneath one of the plurality of lanes. Instead, Walter teaches that the support strip is located next to the conveyor. In Greenwell, there is no support strip and thus, there is no teaching that the support strip is located at each of the plurality of lanes and is located beneath the movable conveyor.

Moreover, as for claim 5, the Examiner also asserts that Walter teaches a machine having a plurality of lanes that includes a spare lane. The Examiner has not pointed to where in Walter such a teaching is found. Applicant cannot find where Walter teaches such a limitation. Accordingly, for this additional reason, Applicant respectfully requests that the Examiner withdraw this rejection as to claim 5.


Claims 6, 8, 10, 21, 23, and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Walter in view of Greenwell and further in view of Ebira (U.S. 5, 174,430). Each of those claims include the following limitations: "a movable conveyor that is positioned to deliver the product to each of said plurality of lanes, said movable conveyor extends under one of said plurality of lanes; a conveyor shifting assembly that is adapted to move said movable conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes." As discussed above, Walter and Greenwell do not teach or suggest those limitations and Ebira does not cure the deficiency. Thus, Applicant respectfully requests that the rejection be withdrawn.

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicant's attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

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